

REMARKS

Claims 1 and 3-16 are pending in the present application. Claim 2 was previously cancelled. Claims 1, 8, 9 and 16 have been amended. Support for the amendments is found in, at least, the originally filed application paragraphs [0026] and [0029] as published. Claims 1 and 3-16 stand rejected and are at issue herein. Reconsideration of the pending claims in view of the aforementioned amendments and following remarks, withdrawal of the outstanding rejections, and indication of allowance of the claims is respectfully solicited.

Applicants Written Record of Examiner Interview

On March 4, 2009, Applicant's Counsel Jeremy R. Bridge and Examiner Ochoa discussed the Office Action dated February 4, 2009 during a telephone interview. The Applicant's Counsel greatly appreciates the courtesies extended by Examiner Ochoa during the telephone interview.

During the interview, the pending 35 U.S.C. §101 rejection was discussed. The Applicant suggested amending the independent claims to relate to a method for extracting acoustic energy and structural energy in an acoustic enclosure using a plurality of actuators and to include specific steps of extracting the energy using a controller to control the plurality of actuators. The Examiner indicated that this amendment should overcome the rejection as the claims would be tied to particular structures such as the actuators, the controller, and the acoustic enclosure.

Rejection Under 35 U.S.C. § 101

Claims 1 and 3-16 have been rejected under 35 U.S.C. §101 as being processes that neither are tied to another statutory class or transform underlying subject matter. Reconsideration of the pending claims in view of the aforementioned amendments, withdrawal of the outstanding rejection and indication of allowance thereof is respectfully solicited.

Independent claims 1, 8, 9, and 16 have been amended to claim, *inter alia*, methods "for extracting acoustic energy and structural energy in an acoustic enclosure using a plurality of actuators comprising . . . extracting acoustic and structural energy from the acoustic enclosure using the actuators by controlling the actuators with the passivity-based controller." Therefore, claims 1, 8, 9, and 16 are now clearly tied to a machine or manufacture.

Therefore, the claims are clearly tied to another statutory class and meaningfully tied to a special purpose machine. The claims require extraction of acoustic energy and structural

energy in an acoustic enclosure. Further, the method includes extracting the energy from the acoustic enclosure using a plurality of actuators. Finally, the method includes controlling the actuators using the passivity-based controller. Thus, the invention as claimed is limited particularly to acoustic enclosures and the use of actuators. As such, claims 1, 8, 9 and 16 are meaningfully tied to another statutory class and the 35 U.S.C. §101 cannot be maintained. Therefore, the Applicants respectfully solicit the Examiner to withdraw the rejection to claims 1 and 3-16 and pass the application on to allowance.

Extension of Time and Fee Deficiency

Applicant(s) believes/believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant(s) has/have inadvertently overlooked the need for a petition and fee for extension of time. If any additional fee is required, or any overpayment is made, in connection with this communication please charge or credit deposit account No. 50-3505.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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